

Statement of Policy on statutory investigations into regulatory failure and producing reports

November 2025

Contents

Chapter 1 Introduction Page 3

Chapter 2 The Statutory Provisions Page 4

Chapter 3 Investigating and reporting on regulatory failures. Page 6

Chapter 4 How we will carry out investigations Page 10



Sign up for our **news and publications alerts**
See all our latest press releases, consultations and speeches.

Chapter 1

Introduction

- 1.1** The Financial Conduct Authority (the 'FCA') is required under the Financial Services Act 2012 (the 'Act') to investigate and report to the Treasury on possible regulatory failures the FCA has made under certain conditions. The FCA must also investigate and report on relevant events where the Treasury consider it to be in the public interest.
- 1.2** The requirements to investigate and report are set out in sections 73, 77-83 in Part 5 of the Act.
- 1.3** The Act also requires us to prepare and issue a statement of policy on the exercise of our functions in Part 5, and in particular:
- a.** What we consider when deciding if the conditions for carrying out an investigation into regulatory failure have been met, and
 - b.** How we will carry out investigations.
- 1.4** This statement of policy fulfils this requirement. The FCA's Board has approved the policy, and the Treasury has agreed to its publication.
- 1.5** We have updated this statement of policy to reflect developments since its original publication in 2013. In particular, we have revised relevant thresholds for inflation, to ensure they remain proportionate. We will continue to review and adjust thresholds periodically.

Chapter 2

The Statutory Provisions

Our Objectives

- 2.1** The Financial Services and Markets Act 2000 (as amended) sets out our statutory objectives. We have a single strategic objective to ensure relevant markets function well. We also have 3 operational objectives and 1 secondary objective. These are to:

Operational objectives

1. Secure an appropriate degree of protection for consumers.
2. Protect and enhance the integrity of the UK financial system.
3. Promote effective competition in the interest of consumers.

Secondary objective

- 2.2** When discharging our general functions, we must, as far as reasonably possible, facilitate the international competitiveness of the UK economy and its growth in the medium to long term. This is a new objective since the 2013 policy was published.
- 2.3** In discharging our general functions, we must, so far as is reasonably possible, act in a way which:
- Is compatible with our strategic objective, and
 - Advances one or more of our operational and secondary objectives.

Duty to investigate and report on possible regulatory failure

- 2.4** The statutory requirements set out a 2-part test for deciding when we must carry out an investigation into regulatory failure and produce a report. Both parts of the test must be met.
- 2.5** We are required to carry out an investigation and produce a report when:
- There have been events involving a regulated person or others which indicate significant failure to ensure appropriate consumer protection, or had or could have had a significant adverse effect on our integrity or competition objectives, and
 - The events might not have occurred or the adverse effect might have been reduced but for a serious failure in the system created by FSMA or the operation of that system.
- 2.6** Even where this statutory test to investigate is not met, we want to learn lessons and continuously improve. In such cases, we may conduct internal 'lessons learned' reviews to identify and address any areas where we can improve our regulatory approach.

- 2.7** For the purpose of this policy, 'events' are events that happen on or after 14 November 2025.
- 2.8** The Treasury can require us to carry out an investigation where it believes the above test is met. Alternatively, the Treasury may require us to investigate where it considers it is in the public interest that we investigate specific events and it does not appear to it that we have or are doing so (whether under Part 5 or otherwise). The Treasury can also give directions on the scope of any investigation, the period during which the investigation is carried out, the conduct of the investigation and the making of reports.
- 2.9** There will be instances where we have already investigated related events through another channel, eg through a previous regulatory failure review, complaints investigation or another review. For these cases, we will seek to build on these lessons rather than repeat the entire investigation and take these into account when considering whether the statutory test is met, and if it is met, how we conduct the investigation. This approach ensures we focus our resources on new or unresolved issues.
- 2.10** The Act allows us to postpone the start of, or suspend, an investigation if necessary to avoid any negative impact on exercising any of our other functions.
- 2.11** We must provide the Treasury with reports of investigations, who must publish them in full, unless they meet the Act's criteria for exceptions.
- 2.12** Reports must set out:
- The result of the investigation.
 - Any lessons we think we should learn.
 - Any other appropriate recommendations.

Chapter 3

Investigating and reporting on regulatory failures

- 3.1** Our approach to supervision document sets out how we will deliver our regulatory objectives and how we can use our supervisory powers.

What we will take into account

- 3.2** The Act sets out a 2-part test determining when we must carry out an investigation and produce a report. Below, we set out the criteria we consider for each operational objective for the first part of the test. We also set out thresholds based on consumer detriment (financial loss) which – supplemented by qualitative factors and adjusted for the relevant market – would indicate whether the event's effect on the objective has been 'significant'.
- 3.3** Factors which may indicate that the second part of the test is met, including how we distinguish failures of the regulatory system from failures in its operation, and what will constitute a 'serious' failure, are also set out below (paragraphs 3.17-3.22).

The consumer protection objective

- 3.4** The factors which would indicate a significant failure to protect consumers are:
- The amount of detriment suffered by consumers in total, or per consumer.
 - The number of consumers who have suffered detriment.
 - The characteristics of those consumers (eg vulnerability).
- 3.5** We may also consider wider impacts, such as the distress from being in arrears or being temporarily unable to access funds, which are not directly captured by financial losses but still important for consumers' wellbeing.

The integrity objective

- 3.6** In deciding whether an event had or could have had a significant adverse effect on our integrity objective, the factors we will take into account are:
- The extent of any misconduct, eg number of institutions involved and the length of time it went on for.
 - The severity and incidence of the potential impact, such as the value and number of contracts affected or the extent to which criminal offences may have been committed.

- The duration and impact of market disruption if transactions have to stop due to technical failures. The importance of the trading venue of the affected financial instruments and availability of alternative trading venues will be relevant in deciding the impact of any disruption.

The competition objective

- 3.7** In determining if there has been an 'event' that might meet the first part of the statutory test, we will consider whether anything we have done, or failed to do, has made competition in the circumstances worse. The fact that competition may not be effective in relevant markets now does not in itself mean that the first part of the test has been met.
- 3.8** As part of our competition strategy, we aim to monitor a number of indicators that can indicate competition in markets is evolving, such as concentration ratios, measures of entry and exit, switching behaviour etc.
- 3.9** We will take into account how competition in the markets we regulate is developing, to establish if the first part of the test for a report has been met.

How we will judge 'significance'

- 3.10** The spectrum of consumers our remit covers, across the range of markets we regulate, means it is not straightforward to set thresholds to help identify if an adverse effect on our operational objectives is significant. We also think some flexibility is helpful, so qualitative as well as quantitative factors will be relevant.
- 3.11** We have updated the 2013 Policy's thresholds in line with inflation and will continue to do so periodically. This has produced a range from £45m to £210m of total 'gross' consumer detriment (financial losses before any recoveries through redress or compensation) as a quantitative threshold for how significant the effects of relevant events are to our objectives.
- 3.12** Where total consumer detriment is £210m or more, against our consumer protection objective, we are more likely to consider the adverse effect is significant and so decide that the first part of the statutory test has been met, unless the consumers are large or sophisticated financial firms.
- 3.13** Between £45m and £210m we will consider other factors, such as the characteristics of the consumers involved, the loss per consumer or the size of the market, when deciding whether the adverse effect is significant.
- 3.14** We are unlikely to consider total consumer detriment below £45m indicates a significant adverse effect for the purposes of the statutory test, unless other qualitative factors apply. These other factors could include whether the characteristics of the consumers in the relevant market mean they are particularly vulnerable.

- 3.15** This range is indicative. If the only detriment suffered is to large/sophisticated financial firms, even losses exceeding £210m may not be considered as indicating a significant failure to protect consumers.
- 3.16** Similarly, for the integrity and competition objectives, we adjust the threshold for the market, and other factors as set out in paragraphs 3.6–3.9 are more likely to be relevant.

Serious failure of the system or its operation

- 3.17** The second part of the statutory test has 2 further parts, either of which must be met in order to trigger an investigation and report. We would need to consider each part on its own merits, but we would distinguish them as follows:
- Failure of the regulatory system would include the failure of the regulatory framework. This would occur when the framework's standards and boundaries, which are relevant to our functions, are inadequate. For example:
 - An event happening outside our regulatory perimeter, ie where we have no regulatory remit.
 - An event where responsibility for taking action to prevent it was unclear due to overlap/underlap with other regulators.
 - An event happened but we did not have sufficient powers to prevent it.
 - Failure of the system's operation would be where our actions caused the event or did not prevent it. This would include a failure in the regulatory processes or our approach and/or how we carried them out to the point we were not meeting our objectives. For example:
 - An event happened because we failed to conduct our operations in line with our risk-based approach.
 - Our risk-based approach was seriously flawed.
 - The event was the result of the negative impact of our policymaking and rules.
- 3.18** As we do not operate a 'zero-failure' regime, this does not mean that every instance where it appears our objectives have not been met is a regulatory failure. This is reflected in our approach to assessments under section 73.
- 3.19** If we have acted in line with our risk-based approach, with any exceptions agreed through appropriate governance, our starting point is that events from decisions will not automatically be a result of the system's failure or a failure in the way we operated it.
- 3.20** Where we think there has been a failure of the system or its operation, we will make the decision as to how serious it is, considering:
- How far it is an organisational failure rather than an isolated instance of one or a small number of people not meeting our professional standards.
 - The consequences – in effect, if there has been a failure, which has had a significant adverse effect on our objectives, we are likely to view that failure as serious.

- 3.21** Both parts of the test must be met in each case to trigger the statutory requirement to investigate and make a report.
- 3.22** However, we anticipate that in some instances it may be necessary to make a public report where the first part of the statutory test has been met, but investigation concludes that the second part has not. Any such report would not be a statutory report in relation to regulatory failure for the purposes of Part 5 of the Act.

Chapter 4

How we will carry out investigations

- 4.1** The following arrangements will apply for statutory investigations that lead to publishing a report, whether we carry out the investigation on our own initiative or at the Treasury's direction.

Our governance

- 4.2** The Board will decide if an investigation is required, unless the Treasury directs the FCA to undertake one. The Board will oversee the investigation process, and the exact nature of this oversight will depend on the circumstances of each case.
- 4.3** The Board will consider the need to balance costs and the time involved in producing the report with the need for independence and using relevant expertise.
- 4.4** The Board will approve the report before sending it to the Treasury.

Our process

- 4.5** The process will be tailored to the particular circumstances of each case. In general, we will ensure that all investigations are fair, independent and based on relevant evidence.
- 4.6** Independence will be built into the process of conducting an investigation and producing a report. If necessary, we may outsource parts of the investigation. Where investigations are not outsourced, they will be undertaken by (unconflicted) staff who were not part of the original events. Independent reviewers may be part of the process if necessary.
- 4.7** We expect firms and others to engage with us in an open and co-operative way when we are conducting investigations. Where necessary, we will use our formal powers to gather information.
- 4.8** Should it be necessary, those subject to potential criticism will be given an opportunity to make representations in response before the report is finalised and sent to the Treasury.

Timing

- 4.9** The statutory requirements allow us to postpone starting, or to suspend, an investigation to avoid a negative effect on exercising our functions. Where we are likely to carry out enforcement action or this is already underway, we would generally expect to begin an investigation only after enforcement investigations and actions are

complete. We will liaise with the Treasury on any directions about timing, conduct and scope.

- 4.10** We must notify the Treasury if we postpone the start of, or suspend, an investigation and specify when it will begin or resume.

Coordination with other bodies

- 4.11** Where necessary, we will co-ordinate with and involve other bodies when carrying out an investigation.
- 4.12** In particular, we also regulate the conduct of firms subject to the Prudential Regulation Authority (PRA) prudential supervision ('dual-regulated firms'). Where events have happened that involve dual-regulated firms we are investigating, we will co-ordinate with the PRA when carrying out an investigation and producing a report.
- 4.13** We will ensure we keep the PRA fully informed of aspects of the investigation relevant to it and we will seek its input where necessary.
- 4.14** If the PRA is carrying out its own investigation, we will seek to avoid unnecessary duplication.

© Financial Conduct Authority 2025
12 Endeavour Square London E20 1JN
Telephone: +44 (0)20 7066 1000
Website: www.fca.org.uk
All rights reserved

Pub ref: 1-008521

All our publications are available to download from www.fca.org.uk.

Request an alternative format

Please complete this [form](#) if you require this content in an alternative format.

Or call 020 7066 6087



Sign up for our **news and publications alerts**